

REFERENCE TITLE: **CORP; chaplains; membership**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HB 2506**

Introduced by  
Representative Pancrazi, Senator Aguirre: Representatives Jones, McGuire,  
Waters

### **AN ACT**

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 1 AND CHAPTER 185, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 2 AND CHAPTER 185, SECTION 2; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by  
3 Laws 2008, chapter 144, section 1 and chapter 185, section 1, is amended to  
4 read:

5 38-881. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Accidental disability" means a physical or mental condition that  
8 the local board finds totally and permanently prevents an employee from  
9 performing a reasonable range of duties within the employee's department, was  
10 incurred in the performance of the employee's duties and was the result of  
11 any of the following:

12 (a) Physical contact with inmates, prisoners, parolees or persons on  
13 probation.

14 (b) Responding to a confrontational situation with inmates, prisoners,  
15 parolees or persons on probation.

16 (c) A job related motor vehicle accident while on official business  
17 for the employee's employer. A job related motor vehicle accident does not  
18 include an accident that occurs on the way to or from work. Persons found  
19 guilty of violating a personnel rule, a rule established by the employee's  
20 employer or a state or federal law in connection with a job related motor  
21 vehicle accident do not meet the conditions for accidental disability.

22 2. "Accumulated member contributions" means the sum of all member  
23 contributions deducted from a member's salary and paid to the fund, plus  
24 member contributions transferred to the fund by another retirement plan  
25 covering public employees of this state, plus previously withdrawn  
26 accumulated member contributions that are repaid to the fund in accordance  
27 with this article, minus any benefits paid to or on behalf of a member.

28 3. "Alternate payee" means the spouse or former spouse of a  
29 participant as designated in a domestic relations order.

30 4. "Alternate payee's portion" means benefits that are payable to an  
31 alternate payee pursuant to a plan approved domestic relations order.

32 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
33 amount of salary that is paid a member by a participating employer during a  
34 period of thirty-six consecutive months of service in which the member  
35 received the highest salary within the last one hundred twenty months of  
36 service. Average monthly salary means the aggregate amount of salary that is  
37 paid a member divided by the member's months of service if the member has  
38 less than thirty-six months of service. In the computation under this  
39 paragraph, a period of nonpaid or partially paid industrial leave shall be  
40 considered based on the salary the employee would have received in the  
41 employee's job classification if the employee was not on industrial leave.

42 6. "Beneficiary" means an individual who is being paid or who has  
43 entitlement to the future payment of a pension on account of a reason other  
44 than the individual's membership in the retirement plan.

1           7. "Claimant" means a member, beneficiary or estate that files an  
2 application for benefits with the retirement plan.

3           8. "Credited service" means credited service transferred to the  
4 retirement plan from another retirement system or plan for public employees  
5 of this state, plus those compensated periods of service as a member of the  
6 retirement plan for which member contributions are on deposit in the fund.

7           9. "Cure period" means the ninety-day period in which a participant or  
8 alternate payee may submit an amended domestic relations order and request a  
9 determination, calculated from the time the plan issues a determination  
10 finding that a previously submitted domestic relations order did not qualify  
11 as a plan approved domestic relations order.

12          10. "Designated position" means:

13           (a) For a county:

14           (i) A county detention officer.

15           (ii) A nonuniformed employee of a sheriff's department whose primary  
16 duties require direct contact with inmates.

17           (b) For the state department of corrections and the department of  
18 juvenile corrections, only the following specifically designated positions:

19           (i) Food service.

20           (ii) Nursing personnel.

21           (iii) Corrections physician assistant.

22           (iv) Therapist.

23           (v) Corrections dental assistant.

24           (vi) Hygienist.

25           (vii) Corrections medical assistant.

26           (viii) Correctional service officer, including assistant deputy  
27 warden, deputy warden, warden and superintendent.

28           (ix) State correctional program officer.

29           (x) Parole or community supervision officers.

30           (xi) Investigators.

31           (xii) Teachers.

32           (xiii) Institutional maintenance workers.

33           (xiv) Youth corrections officer.

34           (xv) Youth program officer.

35           (xvi) Behavioral health treatment unit managers.

36           (xvii) The director and assistant directors of the department of  
37 juvenile corrections and the superintendent of the state educational system  
38 for committed youth.

39           (xviii) The director, deputy directors and assistant directors of the  
40 state department of corrections.

41           (xix) CHAPLAINS, BUT ONLY IF EMPLOYED BY THE STATE DEPARTMENT OF  
42 CORRECTIONS.

43           ~~(xix)~~ (xx) Other positions designated by the local board of the state  
44 department of corrections or the local board of the department of juvenile  
45 corrections pursuant to section 38-891.

1 (c) For a city or town, a city or town detention officer.

2 (d) For an employer of an eligible group as defined in section 38-842,  
3 full-time dispatchers.

4 (e) For the judiciary, probation, surveillance and juvenile detention  
5 officers and those positions designated by the local board of the judiciary  
6 pursuant to section 38-891.

7 (f) For the department of public safety, state detention officers.

8 11. "Determination" means a written document that indicates to a  
9 participant and alternate payee whether a domestic relations order qualifies  
10 as a plan approved domestic relations order.

11 12. "Determination period" means the ninety-day period in which the  
12 plan must review a domestic relations order that is submitted by a  
13 participant or alternate payee to determine whether the domestic relations  
14 order qualifies as a plan approved domestic relations order, calculated from  
15 the time the plan mails a notice of receipt to the participant and alternate  
16 payee.

17 13. "Domestic relations order" means an order of a court of this state  
18 that is made pursuant to the domestic relations laws of this state and that  
19 creates or recognizes the existence of an alternate payee's right to, or  
20 assigns to an alternate payee the right to, receive a portion of the benefits  
21 payable to a participant.

22 14. "Employee" means a person determined by the local board to be  
23 employed by a participating employer in a designated position.

24 15. "Employer" means an agency or department of this state or a  
25 political subdivision of this state that has one or more employees in a  
26 designated position.

27 16. "Fund" means the corrections officer retirement plan fund.

28 17. "Fund manager" means the fund manager of the public safety  
29 personnel retirement system.

30 18. "Juvenile detention officer" means a juvenile detention officer  
31 responsible for the direct custodial supervision of juveniles who are  
32 detained in a county juvenile detention center.

33 19. "Local board" means the retirement board of the employer that  
34 consists of persons appointed or elected to administer the plan as it applies  
35 to the employer's members in the plan.

36 20. "Member" means any employee who meets all of the following  
37 qualifications:

38 (a) Who is a full-time paid person employed by a participating  
39 employer in a designated position.

40 (b) Who is receiving salary for personal services rendered to a  
41 participating employer or would be receiving salary except for an authorized  
42 leave of absence.

43 (c) Whose customary employment is at least forty hours each week and  
44 for more than six months in a calendar year.

21. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

22. "Notice of receipt" means a written document that is issued by the plan to a participant and alternate payee and that states that the plan has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

23. "Participant" means a member who is subject to a domestic relations order.

24. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

25. "Participating employer" means an employer that the fund manager has determined to have one or more employees in a designated position or a county, city, town or department of this state that has entered into a joinder agreement pursuant to section 38-902.

26. "Pension" means a series of monthly payments by the retirement plan.

27. "Personal representative" means the personal representative of a deceased alternate payee.

28. "Plan approved domestic relations order" means a domestic relations order that the plan approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

29. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

30. "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement plan.

31. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

32. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

33. "Salary" means the base salary, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, fringe benefit pay and similar extra payments.

34. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the plan, or a domestic relations order submitted to the plan that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

35. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

36. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws 2008, chapter 144, section 2 and chapter 185, section 2, is amended to read:

38-881. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department, was incurred in the performance of the employee's duties and was the result of any of the following:

(a) Physical contact with inmates, prisoners, parolees or persons on probation.

(b) Responding to a confrontational situation with inmates, prisoners, parolees or persons on probation.

(c) A job related motor vehicle accident while on official business for the employee's employer. A job related motor vehicle accident does not include an accident that occurs on the way to or from work. Persons found guilty of violating a personnel rule, a rule established by the employee's employer or a state or federal law in connection with a job related motor vehicle accident do not meet the conditions for accidental disability.

2. "Accumulated member contributions" means the sum of all member contributions deducted from a member's salary and paid to the fund, plus member contributions transferred to the fund by another retirement plan covering public employees of this state, plus previously withdrawn accumulated member contributions that are repaid to the fund in accordance with this article, minus any benefits paid to or on behalf of a member.

3. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

1           4. "Alternate payee's portion" means benefits that are payable to an  
2 alternate payee pursuant to a plan approved domestic relations order.

3           5. "Average monthly salary" means one-thirty-sixth of the aggregate  
4 amount of salary that is paid a member by a participating employer during a  
5 period of thirty-six consecutive months of service in which the member  
6 received the highest salary within the last one hundred twenty months of  
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8 paid a member divided by the member's months of service if the member has  
9 less than thirty-six months of service. In the computation under this  
10 paragraph, a period of nonpaid or partially paid industrial leave shall be  
11 considered based on the salary the employee would have received in the  
12 employee's job classification if the employee was not on industrial leave.

13           6. "Beneficiary" means an individual who is being paid or who has  
14 entitlement to the future payment of a pension on account of a reason other  
15 than the individual's membership in the retirement plan.

16           7. "Claimant" means a member, beneficiary or estate that files an  
17 application for benefits with the retirement plan.

18           8. "Credited service" means credited service transferred to the  
19 retirement plan from another retirement system or plan for public employees  
20 of this state, plus those compensated periods of service as a member of the  
21 retirement plan for which member contributions are on deposit in the fund.

22           9. "Cure period" means the ninety-day period in which a participant or  
23 alternate payee may submit an amended domestic relations order and request a  
24 determination, calculated from the time the plan issues a determination  
25 finding that a previously submitted domestic relations order did not qualify  
26 as a plan approved domestic relations order.

27           10. "Designated position" means:

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31 duties require direct contact with inmates.

32           (b) For the state department of corrections and the department of  
33 juvenile corrections, only the following specifically designated positions:

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42 warden, deputy warden, warden and superintendent.

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- 1 (xii) Teachers.  
2 (xiii) Institutional maintenance workers.  
3 (xiv) Youth corrections officer.  
4 (xv) Youth program officer.  
5 (xvi) Behavioral health treatment unit managers.  
6 (xvii) The director and assistant directors of the department of  
7 juvenile corrections and the superintendent of the state educational system  
8 for committed youth.  
9 (xviii) The director, deputy directors and assistant directors of the  
10 state department of corrections.  
11 (xix) CHAPLAINS, BUT ONLY IF EMPLOYED BY THE STATE DEPARTMENT OF  
12 CORRECTIONS.  
13 ~~(xix)~~ (xx) Other positions designated by the local board of the state  
14 department of corrections or the local board of the department of juvenile  
15 corrections pursuant to section 38-891.  
16 (c) For a city or town, a city or town detention officer.  
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18 full-time dispatchers.  
19 (e) For the judiciary, probation, surveillance and juvenile detention  
20 officers and those positions designated by the local board of the judiciary  
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40 political subdivision of this state that has one or more employees in a  
41 designated position.  
42 16. "Fund" means the corrections officer retirement plan fund.  
43 17. "Fund manager" means the fund manager of the public safety  
44 personnel retirement system.

1       18. "Juvenile detention officer" means a detention officer responsible  
2 for the direct custodial supervision of juveniles who are detained in a  
3 county juvenile detention center.

4       19. "Local board" means the retirement board of the employer that  
5 consists of persons appointed or elected to administer the plan as it applies  
6 to the employer's members in the plan.

7       20. "Member" means any employee who meets all of the following  
8 qualifications:

9       (a) Who is a full-time paid person employed by a participating  
10 employer in a designated position.

11       (b) Who is receiving salary for personal services rendered to a  
12 participating employer or would be receiving salary except for an authorized  
13 leave of absence.

14       (c) Whose customary employment is at least forty hours each week and  
15 for more than six months in a calendar year.

16       21. "Normal retirement date" means the first day of the calendar month  
17 immediately following an employee's completion of twenty years of service or,  
18 in the case of a dispatcher, twenty-five years of service, the employee's  
19 sixty-second birthday and completion of ten years of service or the month in  
20 which the sum of the employee's age and years of credited service equals  
21 eighty.

22       22. "Notice of receipt" means a written document that is issued by the  
23 plan to a participant and alternate payee and that states that the plan has  
24 received a domestic relations order and a request for a determination that  
25 the domestic relations order is a plan approved domestic relations order.

26       23. "Participant" means a member who is subject to a domestic relations  
27 order.

28       24. "Participant's portion" means benefits that are payable to a  
29 participant pursuant to a plan approved domestic relations order.

30       25. "Participating employer" means an employer that the fund manager  
31 has determined to have one or more employees in a designated position or a  
32 county, city, town or department of this state that has entered into a  
33 joinder agreement pursuant to section 38-902.

34       26. "Pension" means a series of monthly payments by the retirement  
35 plan.

36       27. "Personal representative" means the personal representative of a  
37 deceased alternate payee.

38       28. "Plan approved domestic relations order" means a domestic relations  
39 order that the plan approves as meeting all the requirements for a plan  
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41       29. "Probation or surveillance officer" means an officer appointed  
42 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
43 personnel, office assistants or support staff.

44       30. "Retired member" means an individual who is being paid a pension on  
45 account of the individual's membership in the retirement plan.

31. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

32. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

33. "Salary" means the base salary, overtime pay, shift differential pay and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis, except that for the purposes of this paragraph the amount of overtime included shall not include payments to the member for the sale of compensatory time. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, payments for the sale of compensatory time, fringe benefit pay and similar extra payments.

34. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the plan, or a domestic relations order submitted to the plan that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

35. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

36. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 3. Transfer of assets

A. A chaplain who on the effective date of this act occupies a designated position as defined in section 38-881, Arizona Revised Statutes, as amended by this act, and who is a current active member of the Arizona state retirement system on that date becomes a member of the corrections officer retirement plan on the effective date of this act unless written consent to the contrary is obtained from the fund manager.

B. Notwithstanding sections 38-921 and 38-922, Arizona Revised Statutes, for each member of the Arizona state retirement system who becomes a member of the corrections officer retirement plan pursuant to subsection A

1 of this section, the assets to be transferred from the Arizona state  
2 retirement system to the corrections officer retirement plan on behalf of  
3 each member are an amount equal to the actuarial present value of the  
4 member's projected benefits under the Arizona state retirement system as  
5 calculated by the Arizona state retirement system's actuary based on the  
6 transferring member's service credits at the time of the transfer or the  
7 member's account balance, whichever is more. Eligible service credits  
8 allowed to be transferred pursuant to this act shall only include service as  
9 a chaplain while employed by the state department of corrections.

10 Sec. 4. Conditional enactment

11 Section 38-881, Arizona Revised Statutes, as amended by Laws 2008,  
12 chapter 144, section 2 and chapter 185, section 2 and this act, becomes  
13 effective on the date prescribed in Laws 2005, chapter 324, section 2 but  
14 only on the occurrence of the condition prescribed by Laws 2005, chapter 324,  
15 section 2.